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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,790	02/25/2002	David Proscia	IPHO/0005.03	3963
25223	7590	05/11/2004	EXAMINER	
WHITEFORD, TAYLOR & PRESTON, LLP ATTN: GREGORY M STONE SEVEN SAINT PAUL STREET BALTIMORE, MD 21202-1626				DOAN, JENNIFER
ART UNIT		PAPER NUMBER		
				2874

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/082,790	PROSCIA ET AL.	
	<b>Examiner</b> Jennifer Doan	<b>Art Unit</b> 2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 24-33 is/are allowed.
- 6) Claim(s) 1-8, 10, 11, 13-17 and 19-23 is/are rejected.
- 7) Claim(s) 9, 12 and 18 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0203</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

This application is a continuation of 10/038,093, filed on January 4, 2002, now U.S. Patent 6,628,886.

### ***Drawings***

1. The drawings, filed on 02/25/2002, are accepted.

### ***Specification***

2. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 10, 11, 13-17 and 19-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Skunes et al. (U.S. 2002/0062170).

Regarding claims 1, 10 and 19, Skunes et al. disclose (see Figures 1-3) a method and an apparatus for transporting one or more optical components between a plurality of optical component processing stages of an assembly system, comprising a carrier transport apparatus adapted to move at least one optical component carrier between two optical component processing stages and position the optical component carrier between a plurality of a processing positions with respect to each of the two optical component stages (abstract; [0019], lines 6-9 and [0026], lines 15-24).

Regarding claims 2, 10, 11, 19 and 20, Skunes et al. disclose an apparatus wherein the carrier transport (pick and place machine) comprises a roller assembly driven by a conveyor drive ([0013], lines 1-5 and [0021], lines 5-8).

Regarding claim 3, Skunes et al. disclose an apparatus wherein the carrier transport comprises a positioning apparatus to move and support the at least one optical component carrier between a plurality of processing positions with respect to the at least one optical component processing stage ([0015], lines 12-22).

Regarding claims 4, 13 and 21, Skunes et al. disclose an apparatus wherein the positioning apparatus comprises a pedestal (pick machine) adapted to lift and support the one optical component carrier.

Regarding claims 5, 14 and 22, Skunes et al. disclose an apparatus wherein the pedestal is adapted to move the optical component carrier in three dimensions with respect to the optical component processing stage ([0019], lines 6-13).

Regarding claims 6, 7 and 15-17, Skunes et al. disclose an apparatus wherein the positioning apparatus comprises an indexing transport apparatus to move the

optical component carrier in a sequential index motion with respect to the at least one optical component processing stage ([0013], lines 1-5).

Regarding claim 8, Skunes et al. disclose an apparatus wherein the indexing transport apparatus comprises one indexing stop (110, 112, Figure 1) to stop and position the optical component carrier in a plurality of indexed processing positions (abstract, lines 5-8).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Skunes et al. as cited above.

Skunes et al. disclose an optical device with all the limitations set forth in the claims as discussed above, except the optical component carrier is moved at least one incremental distance as recited in claim 23. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to move the optical component carrier at least one incremental distance, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

#### ***Allowable Subject Matter***

8. Claims 9, 12 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-33 are allowed.

The prior art fails to disclose or reasonably suggest an apparatus for transporting one or more optical components between a plurality of optical component processing stages of an assembly system, wherein the indexing transport apparatus includes a carrier support member having a cam apparatus and shaft member; and further wherein the plurality of rollers are rotatably mounted to a frame and aligned along a longitudinal axis about orthogonal to the travel of the optical component carrier.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bergmann (U.S. Patent 5,703,992) discloses an optical package for optical components. And Yeo et al. (U.S. Patent 6,617,667) disclose an optical device carrier.

10. The prior art documents submitted by applicant in the Information Disclosure Statement filed on 02/25/2003, have all been considered and made of record (note the attached copy of form PTO-1449).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Doan whose telephone number is (571) 272-2346. The examiner can normally be reached on Monday to Thursday from 6:00am to 3:30pm, second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

*Jennifer Doan*  
JD

February 5, 2004